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ecclesiastic who migrated to England from Normandy or North France. The writer's aim was to give an account of those parts of the English constitution which had survived from the Anglo-Saxon period ; for, as Dr. Liebermann points out, in the twelfth century "leges" often meant "law and constitution." The treatise before us contains many observations on the origin and development of English institutions, but some of these observations are based on insufficient knowledge. Dr. Liebermann carefully tests the accuracy of all these statements regarding the history of institutions, and this part of his work is of great value. He really examines all the more important features of the constitutional and legal development of England in the eleventh and twelfth centuries. Separate chapters are devoted to the church, royalty, classes of society, territorial districts, courts of law, and criminal procedure ; and much light is thrown upon these subjects.

It would require much space to indicate all the interesting points presented within the limits of this brief monograph. The one which will perhaps attract most attention is Dr. Liebermann's theory regarding the origin of the frank-pledge system (pp. 78-81, 113). He believes that *freoborg* was the Anglo-Saxon name of this institution ; that the word meant originally not peace-pledge but free-pledge, the suretyship of freemen ; that the suretyship group or tithing originated in the latter part of the Anglo-Saxon period, and was based upon the obligation of the *mæth* to act as pledges for kinsmen ; and that the responsibility of the hundred for murder was probably established by William the Conqueror in imitation of the frank-pledge system. Dr. Liebermann's views on this subject are worthy of careful consideration, but his arguments do not seem to be convincing. It appears more reasonable to suppose that the responsibility of the tithing, the hundred, and the neighboring townships was definitely organized by the strong hand of William the Conqueror, though doubtless crude germs of all these artificial arrangements may be found in the Anglo-Saxon period.

CHARLES GROSS.

The Constitutional History and Constitution of the Church of England. Translated from the German of FELIX MAKOWER, Barrister, of Berlin. (New York: Macmillan and Co. 1895. Pp. x, 545.)

THIS is another addition to the debt of obligation which England owes to foreigners for their investigation and study of her early history and records. Makower is the first, however, we believe, to give special attention to ecclesiastical history, though the names of Schmid, Gneist, Riess, Liebermann, Vinogradoff, Bigelow, and Gross are well known for their valuable work in the study of constitutional development. The importance of the Church and of its constitutional history, in England, and its close connection with the general constitutional development of the

realm, are, or ought to be, sufficiently apparent, but have not always been clearly recognized and distinctly stated. It is, however, an important fact that the organization and unity of the Church antedated by a century and a half the unity of political organization, with which it maintained the closest connection; and though again and again the political unity was threatened, and even actually broken, during the Anglo-Saxon period, the unity and organization of the Church, under the archbishopric of Canterbury, remained firm and unshaken. Though its connection with the state was not so close from the time of the Conquest down to the Reformation, its influence is very great in that period, and even greater during the reigns of the Tudors and of the Stuarts. It is rarely realized to what extent Henry VIII. and Elizabeth owed to the Church the power and exercise of their high prerogative. Even to-day the existence of an established Church, whose chief officers owe their position to government appointment, and who occupy seats in the House of Lords, gives to ecclesiastical affairs a large, if not undue, place among affairs of state and of politics. In the case of individuals in the Church, this importance is intensified rather than diminished. Not only all through the Middle Ages did ecclesiastics hold the highest positions in government, but special instances of exceptional influence and importance may be noted. Dunstan, in the reign of Edgar; Lanfranc, under William; Roger of Salisbury, under Henry I.; Becket and Glanvil, under Henry II.; Hugh of Lincoln, under Richard I.; Hubert Walter and Stephen Langton, under John; Wolsey and Cranmer, under Henry VIII.; and Laud, under Charles I., are only a few who have made the influence of the Church effective in the development of the political constitution.

The book before us treats mainly of the ecclesiastical side, however, without dwelling at great length on these connections and influences. It enters at once into the subject without preface or introduction. The table of contents, furnishing a clear and concise analysis, shows a division into five parts, which are entitled: History of the Constitution of the Church; Sources of Ecclesiastical Law; Relations of the Church of England to other Christian Churches; The Clergy and their Orders; The Several Authorities in the Church.

The first part gives a fairly good summary of the history, divided, by the Conquest and by the Reformation, into three distinct periods, and includes a consideration of Scotland, Ireland, the Colonies, and the United States. The second part treats of the general sources of the Law, including the Prayer Book and Articles. The third part considers the relation of the reformed Church of England to the pre-reformation Church, and to other modern churches, and the procedure against heretics. The fourth part considers the clergy in general, — bishops, priests, and deacons, — their participation in parliament, and the history of celibacy. The fifth part treats of the King, and the various other civil authorities since the Reformation; of the archbishops and bishops, and their representatives and assistants; of the chapters, churchwardens, societies, minor officers, synods,

and courts. At the end of the book is an appendix, containing some fifteen of the most important documents, printed in full or in part ; a general view of the literature of the subject, carefully arranged and classified ; and a chronological table of the kings, with day of beginning and of ending of the reign of each. A good index also is given.

The work is almost altogether a study from the sources, and the very full and numerous quotations therefrom, given in extensive notes, and often occupying nearly the whole page, add greatly to the value of a scholarly, straightforward, and judicious presentation of the subject, remarkably accurate in details. The first and fifth parts are the largest and most important, although the third is very interesting and is calculated to excite the most discussion, largely on sentimental grounds. Altogether the work forms a substantial and somewhat bulky octavo of over five hundred pages, and if it had been published in a form worthy of it would be much more serviceable. But the type is of a peculiar and very trying form, the notes being almost entirely in italics, the margins are exceedingly narrow, and, though the covers are of strong cloth, the book is so loosely put together that it loses its shape before a first reading is concluded.

The historical treatment in the first part serves by way of general introduction, is well done, brings out the important points, and notes clearly their bearings and relations. Frequent cross-references here, and throughout the work, serve to connect the various parts together, but it would have been less confusing if the whole topic, in each instance, could have been treated fully and completely, in one place, under one head.

In the third part, entitled, Relations of the Church of England to other Christian Churches, the author touches upon one of the most important and most controverted topics connected with the whole constitutional history of the Church. He first considers the relation of the reformed Church to the Church before the Reformation. It is frequently maintained that there was an uninterrupted connection with the past, and that no material difference exists. In opposition to this, our author declares : first, that "according to constitutional law before the Reformation the state was not entitled to issue ordinances upon purely ecclesiastical matters, the exclusive right of the Church not being contested." Furthermore, "the power of the pope to govern and make rules had been recognized for centuries by decisive acts of the state, and though England had in 1366 shaken off the yoke of the universal temporal monarchy with respect to spiritual affairs she had still remained subject to the universal domination of Rome." The change made by the renouncing all papal authority is compared to "the declaration by a federal state that it would no longer obey the ordinances of the central power." "A whole series of smaller breaches of contract" may be pointed out. Attention also is called to the fact that while under Henry VIII. and Edward VI. the government took pains to provide for assent by Convocation, "in Elizabeth's reign, the revival of the most important reforming laws, and especially the introduction once more of the royal supremacy and of the reformed prayer-book, took place by the sole act

of the civil powers, Convocation being either not consulted or expressly hostile to the measures adopted." A further alteration of the constitution of the Church was involved in "the abolition of papal authority in England and in the transference of the rights of government to the English sovereign." "For the peculiarity of the Romish Church lay in the existence of a central power outside the various nations, a power which claimed to stand above them. Now the Reformation in eradicating this element and declaring all ecclesiastical interference from without to be inadmissible, must be regarded as having produced a fundamental change in the constitution of the Church." These are strong arguments clearly and forcibly put, but they hardly justify the author in speaking of "this untenable doctrine of continuous development." It may be said that the changes mentioned in the first argument are not necessarily enough to destroy the identity of the Church even if constitutionally forced upon it. In answer to the second, the casting off of the papal authority did not change the constitution of the Church so as to destroy its identity any more than did the taking on of that authority. The discussion is largely a dispute as to the meaning of terms, and identity of organism is difficult to define; but it may fairly be maintained that in view of the slow and conservative character of the English Reformation, the preservation of that episcopal government which antedated the papacy, and the continuance of the rights of property without a break, the English Church did retain enough to insure its continuity and identity, whatever, and however great, the changes which were introduced.

In considering the relation of the reformed Church of England to other churches, emphasis is very rightly laid on Article 34, acknowledging the existence and rights of other national churches. This article implies two things: first, that each nation has a right to the management of its own religious and ecclesiastical affairs, and, secondly, that there should be religious and ecclesiastical unity within each nation. Unfortunately, the English Church has been unable to realize either of these views. Neither has she unity within her own nation, nor does she acknowledge the national churches of other nations. The tendency at present is to recognize only such churches as have episcopal constitutions, and continuity by succession. "By this distinction," it is rightly and forcibly said, "a certain outward form of the Church is pronounced essential, whilst what is of main import, its doctrine, is left unregarded. . . . Though the episcopal is the recognized constitution of the Church of England, it cannot even be conceded that that constitution is regarded in the fundamental formularies of the English Church as the essential one of every Christian Church." "In the introduction to the form of ordination . . . it is not contended there that the Bible prescribes an episcopal constitution. Nor does the profession of belief known as the thirty-nine articles contain the doctrine of the divine institution of Episcopacy." This is strictly true, and in accordance with the conclusions of Hooker, who declared distinctly, in his argument against the Puritans, that any form of church government

is not of immutable and divine right. Attention is very properly called to the fact that "during the reign of Elizabeth and of James I., the clergy of non-episcopal churches outside England were, in the opinion of the day, accounted regularly ordained priests." "In Elizabeth's days, clergy officiated in the Church of England who had not been ordained by bishops." "However, the act of uniformity of Charles II. . . . forbids, within the established Church of England, any person to be admitted to a benefice who has not received ordination from a bishop. That is still the law of the land."

Another interesting topic, with the consideration of which we must close this review, is found on pages 394 f., and relates to the participation of ecclesiastical persons in the temporal courts. Our author here follows the lead of Stubbs and others, in declaring that after the Conquest "the old hundred-moots fell into decay. The judicial powers of the shire-moots were lost by degrees,—except in minor cases,—to the royal courts. Except in so far as jurisdiction passed to the King's supreme court, for the old meetings of the shire court were substituted the assizes held in the shire by itinerant judges sent there from the court. These assizes became more and more general from Henry II.'s time onward." This is the usual view of these courts but is not presented by Stubbs or by Bigelow except with many questionings and qualifications, and it is difficult to see how it can be harmonized with the facts that while Henry I. ordered the courts to be held as they had been in the time of Edward the Confessor, the hundred court every four weeks, and the shire court twice a year, by the time of Henry III. (probably in the reign of Henry II., when the sheriff's tourn seems to have been instituted) they had come to be held much oftener, the hundred court every two or three weeks, and the shire court every month. This greater frequency surely seems to imply greater importance and a larger amount of business. Whatever may be said in regard to the regularity and importance of the assizes of the justices itinerant, a close examination of the Assize Rolls, in the Record Office at London, for the reign of Henry III., the first which are at all complete, has failed to show that they were held in any county oftener than once in four years, more generally once in seven; and sometimes a period of from twelve to fourteen years apparently elapsed between them. The fact is, as I hope to show in another place, that a careful study of the functions and procedure of these local courts furnishes evidence of their increased importance in the practical settlement of many cases, and in the preliminary hearing and preparation of others for the final settlement by the itinerant justices.

In the Anglo-Saxon period the bishop was one of the presiding officers of the shire, and possibly also of the hundred court, and the earlier notices of the suitors from the vills name the priest, together with the reeve and four best men, but by William's ordinance of separation the bishop was forbidden to hold pleas in the hundred, and the priest disappears by the close of the twelfth century.

In regard to the trial of ecclesiastical persons, "it was recognized for the first time in Stephen's charter of 1136, that spiritual persons, including inferior clerks, should be amenable only to ecclesiastical courts." These concessions Henry II. refused to ratify, and desired to go back to the earlier customs of Henry I. and William. Hence the struggle with Becket over the Constitutions of Clarendon. Out of this privilege arose 'benefit of clergy,' extended to all persons who could read, and then, under James I., given to women, when it came to mean a mere mitigation of punishment (usually the death penalty) in certain cases called 'clergyable offences.'

The work concludes with a valuable presentation of the condition of the Church at the present time, showing how the ecclesiastical courts have gradually, in the present century, lost most of their competence in civil cases until it has been finally abolished in regard to all important matters. The present courts with their names and functions are briefly but accurately described.

CHARLES L. WELLS.

History of England under Henry the Fourth. By JAMES HAMILTON WYLIE, M.A. Vol. III., 1407-1410. (London and New York: Longmans, Green and Co. 1896. Pp. xi, 482.)

MR. WYLIE'S work has grown under his hand in a way with which we can all sympathize, even though we may demur. When the first volume was published, it was announced as one of two volumes; the second, when it appeared, was prefaced by the statement that a third would be necessary; and now in the third we have the same announcement for an additional fourth volume. This third instalment covers the years from 1407 to 1410, inclusive, recounting the progress of the great Schism, of the war between England and France, and of the Lollard agitation; the actions of the king, the council, and parliament during these years; with special chapters on the gilds, and the Hussite quarrels at Prague. More than in either of the preceding volumes is one impressed with the fact that the length of the work is somewhat disproportionate to the importance of its subject; and yet it is by no means immediately apparent how this is so. Few, if any, of the usual evidences of "padding" are visible. The matter of which the book is composed is solid information; it is drawn from original sources; it is to a great extent new. Moreover, the work has excellences that are even more unusual than these. It is broad in its interests. Matters of state and matters of church, events in the political and military, in the economic and social world, are given in great detail. Again, in contrast with most English histories written by Englishmen, it is quite free from insular narrowness. The affairs of the Continent are described wherever they touch the interests of England, and are discussed for their own sake as well as for the sake of that connection. Especially in this third volume, the great Schism and the attempts to close it, the intrigues of the French political parties headed by the dukes of Burgundy and Orleans,